



House of Representatives

File No. 857

General Assembly

January Session, 2013

(Reprint of File No. 621)

House Bill No. 5358
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 24, 2013

AN ACT PROHIBITING STATE CONTRACTS WITH ENTITIES MAKING CERTAIN INVESTMENTS IN IRAN.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2013*) (a) For purposes of this
2 section, "state agency" and "quasi-public agency" have the same
3 meanings as provided in section 1-79 of the general statutes, "large
4 state contract" has the same meaning as provided in section 4-250 of
5 the general statutes and "entity" means any corporation, general
6 partnership, limited partnership, limited liability partnership, joint
7 venture, nonprofit organization or other business organization whose
8 principal place of business is located outside of the United States, but
9 excludes any United States subsidiary of a foreign corporation.

10 (b) No state agency or quasi-public agency shall enter into any large
11 state contract, or amend or renew any such contract with any entity
12 who (1) has failed to submit a written certification indicating whether
13 or not such entity has made a direct investment of twenty million
14 dollars or more in the energy sector of Iran on or after October 1, 2013,

15 as described in Section 202 of the Comprehensive Iran Sanctions,
16 Accountability and Divestment Act of 2010, or has increased or
17 renewed such investment on or after said date, or (2) has submitted a
18 written certification indicating that such entity has made such an
19 investment on or after October 1, 2013, or has increased or renewed
20 such an investment on or after said date. Each such certification shall
21 be sworn as true to the best knowledge and belief of the entity signing
22 the certification, subject to the penalties of false statement.

23 (c) Each state agency and quasi-public agency shall include in the
24 bid specifications or request for proposals for a large state contract a
25 notice of the certification requirements of this section. Prior to
26 submitting a bid or proposal for a large state contract, each bidder or
27 proposer who is an entity shall submit a certification that such bidder
28 or proposer has or has not made an investment as described in
29 subsection (b) of this section.

30 (d) Any entity who makes a good faith effort to determine whether
31 such entity has made an investment described in subsection (b) of this
32 section shall not be subject to the penalties of false statement pursuant
33 to this section. A "good faith effort" for purposes of this subsection
34 includes a determination that such entity is not on the list of persons
35 who engage in certain investment activities in Iran created by the
36 Department of General Services of the state of California pursuant to
37 Division 2, Chapter 2.7 of the California Public Contract Code. Nothing
38 in this subsection shall be construed to impair the ability of the state
39 agency or quasi-public agency to pursue a breach of contract action for
40 any violation of the provisions of the contract.

41 (e) The provisions of this section shall not apply to any contract of
42 the Treasurer as trustee of the Connecticut retirement plans and trust
43 funds, as defined in section 3-13c of the general statutes, provided
44 nothing in this subsection shall be construed to prevent the Treasurer
45 from performing his or her fiduciary duties under section 3-13g of the
46 general statutes.

47 Sec. 2. (*Effective from passage*) Not later than thirty days after the
48 effective date of this section, the Secretary of the State shall inform the
49 Attorney General of the United States of the passage of section 1 of this
50 act by the General Assembly.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	New section
Sec. 2	<i>from passage</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill prohibits any state or quasi-public agency from entering into certain contracts with any person who fails to certify that he or she has not invested \$20 million or more in Iran's energy sector. These provisions are not anticipated to result in a fiscal impact to the state.

House "A" makes several minor changes to the underlying bill which have no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 5358 (as amended by House "A")******AN ACT PROHIBITING STATE CONTRACTS WITH ENTITIES MAKING CERTAIN INVESTMENTS IN IRAN.*****SUMMARY:**

This bill prohibits state and quasi-public agencies from entering into, renewing, or amending a large state contract with any entity that (1) fails to certify that it has not directly invested \$20 million or more in Iran's energy sector or (2) certifies that it has made, renewed, or increased such an investment (see COMMENT). The prohibition applies to investments made on and after October 1, 2013 and to prior investments increased or renewed on and after that date.

The bill defines an entity as any corporation, general partnership, limited partnership, limited liability partnership, joint venture, nonprofit organization, or other business organization whose principal place of business is outside the U.S. The definition excludes U.S. subsidiaries of foreign corporations.

Iran's energy sector, as defined by federal law, includes activities to develop petroleum or natural gas resources or nuclear power in Iran. A large state contract is one valued at more than \$500,000 in a calendar or fiscal year for building construction, procurement, or service contracts; leases; or licensing agreements.

The bill does not apply to any contract of the state treasurer in her role as trustee of the Connecticut retirement plans and trust funds. By law, the treasurer must divest and not invest further in any Iranian-issued security or investment. She may divest, or decide against future investments of, state funds in any company doing business in Iran after various considerations.

Lastly, the bill requires the secretary of the state to notify the U.S. attorney general of the bill's requirements within 30 days of its passage, as required by federal law.

*House Amendment "A" (1) specifies that the bill applies to entities, rather than people; (2) defines entity; and (3) specifies that the investment must be a direct investment.

EFFECTIVE DATE: October 1, 2013, except that the provision requiring notification by the secretary of the state is effective upon passage.

CERTIFICATION REQUIREMENT

Under the bill, bidders and proposers that are entities must submit the certification before submitting a bid or proposal for a large state contract. The certification must be sworn as true to the entity's best knowledge and belief, subject to the penalties for false statement. Agencies must include notice of these requirements in bid specifications or requests for proposals (RFP) for such contracts.

The bill exempts from the penalty for false statement affiants who make a good faith effort to verify whether they have made a prohibited investment. It specifies that a good faith effort includes determining that the entity does not appear on a list, published by the California Department of General Services, of people who have made prohibited investments.

COMMENT

Possible Conflict With Federal Law

The 2010 federal Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA) (P.L. 111-195) allows state and local governments to divest or prohibit the investment of assets in certain entities that do business with or invest in Iran's energy sector. The bill does not directly require the state to determine that an entity has made prohibited investments (as CISADA requires), but rather bars contracting with entities who fail to certify that they have not made

prohibited investments (or who certify that they have made such investments).

Additionally, CISADA requires state and local governments to give such entities 90 days' written notice before divesting or prohibiting the investment of assets. The bill requires no such notice, other than that which accompanies the bid specifications or RFP.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 14 Nay 0 (04/05/2013)